

112TH CONGRESS  
2D SESSION

# S. 2388

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## AN ACT

To reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
 3 “National Oceanic and Atmospheric Administration Com-  
 4 missioned Officer Corps Amendments Act of 2012”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
 6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Strength and distribution in grade.
- Sec. 3. Exclusion of officers recalled from retired status and positions of impor-  
 tance and responsibility from number of authorized commis-  
 sioned officers.
- Sec. 4. Obligated service requirement.
- Sec. 5. Training and physical fitness.
- Sec. 6. Appointments.
- Sec. 7. Personnel boards.
- Sec. 8. Temporary appointments.
- Sec. 9. Officer candidates.
- Sec. 10. Involuntary retirement or separation.
- Sec. 11. Separation pay.
- Sec. 12. Applicability of certain provisions of title 10, United States Code.
- Sec. 13. Education loan repayment program.
- Sec. 14. Interest payment program.
- Sec. 15. Student pre-commissioning education assistance program.
- Sec. 16. Limitation on educational assistance.
- Sec. 17. Applicability of certain provisions of title 37, United States Code.
- Sec. 18. Application of certain provisions of competitive service law.
- Sec. 19. Eligibility of all members of uniformed services for Legion of Merit  
 award.
- Sec. 20. Application of Employment and Reemployment Rights of Members of  
 the Uniformed Services to members of commissioned officer  
 corps.
- Sec. 21. Protected communications for commissioned officer corps and prohibi-  
 tion of retaliatory personnel actions.
- Sec. 22. Criminal penalties for wearing uniform without authority.
- Sec. 23. Technical correction.
- Sec. 24. Report.
- Sec. 25. Effective date.

7 **SEC. 2. STRENGTH AND DISTRIBUTION IN GRADE.**

8 Section 214 of the National Oceanic and Atmospheric  
 9 Administration Commissioned Officer Corps Act of 2002  
 10 (33 U.S.C. 3004) is amended to read as follows:

1 **“SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.**

2 “(a) GRADES.—The commissioned grades in the com-  
3 missioned officer corps of the Administration are the fol-  
4 lowing, in relative rank with officers of the Navy:

5 “(1) Vice admiral.

6 “(2) Rear admiral.

7 “(3) Rear admiral (lower half).

8 “(4) Captain.

9 “(5) Commander.

10 “(6) Lieutenant commander.

11 “(7) Lieutenant.

12 “(8) Lieutenant (junior grade).

13 “(9) Ensign.

14 “(b) PROPORTION.—

15 “(1) IN GENERAL.—The officers on the lineal  
16 list shall be distributed in grade in the following per-  
17 centages:

18 “(A) 8 in the grade of captain.

19 “(B) 14 in the grade of commander.

20 “(C) 19 in the grade of lieutenant com-  
21 mander.

22 “(2) GRADES BELOW LIEUTENANT COM-  
23 MANDER.—The Secretary shall prescribe, with re-  
24 spect to the distribution on the lineal list in grade,  
25 the percentages applicable to the grades of lieuten-  
26 ant, lieutenant (junior grade), and ensign.

1       “(c) ANNUAL COMPUTATION OF NUMBER IN  
2 GRADE.—

3               “(1) IN GENERAL.—Not less frequently than  
4 once each year, the Secretary shall make a computa-  
5 tion to determine the number of officers on the lin-  
6 eal list authorized to be serving in each grade.

7               “(2) METHOD OF COMPUTATION.—The number  
8 in each grade shall be computed by applying the ap-  
9 plicable percentage to the total number of such offi-  
10 cers serving on active duty on the date the computa-  
11 tion is made.

12               “(3) FRACTIONS.—If a final fraction occurs in  
13 computing the authorized number of officers in a  
14 grade, the nearest whole number shall be taken. If  
15 the fraction is  $\frac{1}{2}$ , the next higher whole number  
16 shall be taken.

17       “(d) TEMPORARY INCREASE IN NUMBERS.—The  
18 total number of officers authorized by law to be on the  
19 lineal list during a fiscal year may be temporarily exceeded  
20 if the average number on that list during that fiscal year  
21 does not exceed the authorized number.

22       “(e) POSITIONS OF IMPORTANCE AND RESPONSI-  
23 BILITY.—Officers serving in positions designated under  
24 section 228(a) and officers recalled from retired status  
25 shall not be counted when computing authorized strengths

1 under subsection (c) and shall not count against those  
2 strengths.

3 “(f) PRESERVATION OF GRADE AND PAY.—No offi-  
4 cer may be reduced in grade or pay or separated from  
5 the commissioned officer corps of the Administration as  
6 the result of a computation made to determine the author-  
7 ized number of officers in the various grades.”.

8 **SEC. 3. EXCLUSION OF OFFICERS RECALLED FROM RE-**  
9 **TIRED STATUS AND POSITIONS OF IMPOR-**  
10 **TANCE AND RESPONSIBILITY FROM NUMBER**  
11 **OF AUTHORIZED COMMISSIONED OFFICERS.**

12 Section 215 of the National Oceanic and Atmospheric  
13 Administration Commissioned Officer Corps Act of 2002  
14 (33 U.S.C. 3005) is amended—

15 (1) in the matter before paragraph (1), by  
16 striking “Effective” and inserting the following:

17 “(a) IN GENERAL.—Effective”; and

18 (2) by adding at the end the following new sub-  
19 section:

20 “(b) POSITIONS OF IMPORTANCE AND RESPONSI-  
21 BILITY.—Officers serving in positions designated under  
22 section 228 and officers recalled from retired status—

23 “(1) may not be counted in determining the  
24 total number of authorized officers on the lineal list  
25 under this section; and

1 “(2) may not count against such number.”.

2 **SEC. 4. OBLIGATED SERVICE REQUIREMENT.**

3 (a) IN GENERAL.—Subtitle A of title II of the Na-  
4 tional Oceanic and Atmospheric Administration Commis-  
5 sioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.)  
6 is amended by adding at the end the following:

7 **“SEC. 216. OBLIGATED SERVICE REQUIREMENT.**

8 “(a) IN GENERAL.—

9 “(1) RULEMAKING.—The Secretary shall pre-  
10 scribe the obligated service requirements for appoint-  
11 ments, training, promotions, separations, continu-  
12 ations, and retirement of officers not otherwise cov-  
13 ered by law.

14 “(2) WRITTEN AGREEMENTS.—The Secretary  
15 and officers shall enter into written agreements that  
16 describe the officers’ obligated service requirements  
17 prescribed under paragraph (1) in return for such  
18 appointments, training, promotions, separations, and  
19 retirements as the Secretary considers appropriate.

20 “(b) REPAYMENT FOR FAILURE TO SATISFY RE-  
21 QUIREMENTS.—

22 “(1) IN GENERAL.—The Secretary may require  
23 an officer who fails to meet the service requirements  
24 prescribed under subsection (a)(1) to reimburse the  
25 Secretary in an amount that bears the same ratio to

1 the total costs of the training provided to that offi-  
2 cer by the Secretary as the unserved portion of ac-  
3 tive duty bears to the total period of active duty the  
4 officer agreed to serve.

5 “(2) OBLIGATION AS DEBT TO UNITED  
6 STATES.—An obligation to reimburse the Secretary  
7 under paragraph (1) shall be considered for all pur-  
8 poses as a debt owed to the United States.

9 “(3) DISCHARGE IN BANKRUPTCY.—A dis-  
10 charge in bankruptcy under title 11 that is entered  
11 less than 5 years after the termination of a written  
12 agreement entered into under subsection (a)(2) does  
13 not discharge the individual signing the agreement  
14 from a debt arising under such agreement.

15 “(c) WAIVER OR SUSPENSION OF COMPLIANCE.—  
16 The Secretary may waive the service obligation of an offi-  
17 cer who—

18 “(1) becomes unqualified to serve on active  
19 duty in the commissioned officer corps of the Ad-  
20 ministration because of a circumstance not within  
21 the control of that officer; or

22 “(2) is—

23 “(A) not physically qualified for appoint-  
24 ment; and

1           “(B) determined to be unqualified for serv-  
2           ice in the commissioned officer corps of the Ad-  
3           ministration because of a physical or medical  
4           condition that was not the result of the officer’s  
5           own misconduct or grossly negligent conduct.”.

6           (b) CLERICAL AMENDMENT.—The table of sections  
7           in section 1 of the Act entitled “An Act to authorize the  
8           Hydrographic Service Improvement Act of 1998, and for  
9           other purposes” (Public Law 107–372) is amended by in-  
10          serting after the item relating to section 215 the following:

“Sec. 216. Obligated service requirement.”.

11   **SEC. 5. TRAINING AND PHYSICAL FITNESS.**

12          (a) IN GENERAL.—Subtitle A of title II of the Na-  
13          tional Oceanic and Atmospheric Administration Commis-  
14          sioned Officer Corps Act of 2002 (33 U.S.C. 3001 et seq.),  
15          as amended by section 4(a), is further amended by adding  
16          at the end the following:

17   **“SEC. 217. TRAINING AND PHYSICAL FITNESS.**

18          “(a) TRAINING.—The Secretary may take such meas-  
19          ures as may be necessary to ensure that officers are pre-  
20          pared to carry out their duties in the commissioned officer  
21          corps of the Administration and proficient in the skills  
22          necessary to carry out such duties. Such measures may  
23          include the following:

24                  “(1) Carrying out training programs and cor-  
25          respondence courses, including establishing and op-

1 erating a basic officer training program to provide  
2 initial indoctrination and maritime vocational train-  
3 ing for officer candidates as well as refresher train-  
4 ing, mid-career training, aviation training, and such  
5 other training as the Secretary considers necessary  
6 for officer development and proficiency.

7 “(2) Providing officers and officer candidates  
8 with books and school supplies.

9 “(3) Acquiring such equipment as may be nec-  
10 essary for training and instructional purposes.

11 “(b) PHYSICAL FITNESS.—The Secretary shall en-  
12 sure that officers maintain a high physical state of readi-  
13 ness in preparation for functioning as a service in the  
14 Navy during times of war, including by establishing stand-  
15 ards of physical fitness for officers that are substantially  
16 equivalent to those prescribed for officers in the Navy.”.

17 (b) CLERICAL AMENDMENT.—The table of sections  
18 in section 1 of the Act entitled “An Act to authorize the  
19 Hydrographic Service Improvement Act of 1998, and for  
20 other purposes” (Public Law 107–372), as amended by  
21 section 4(b), is further amended by inserting after the  
22 item relating to section 216, as added by such section  
23 4(b), the following:

“Sec. 217. Training and physical fitness.”.

24 **SEC. 6. APPOINTMENTS.**

25 (a) ORIGINAL APPOINTMENTS.—

1           (1) IN GENERAL.—Section 221 of the National  
2       Oceanic and Atmospheric Administration Commis-  
3       sioned Officer Corps Act of 2002 (33 U.S.C. 3021)  
4       is amended to read as follows:

5 **“SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINT-**  
6                                   **MENTS.**

7       “(a) ORIGINAL APPOINTMENTS.—

8           “(1) GRADES.—

9                   “(A) IN GENERAL.—Except as provided in  
10           subparagraph (B), an original appointment of  
11           an officer may be made in such grades as may  
12           be appropriate for—

13                           “(i) the qualification, experience, and  
14                           length of service of the appointee; and

15                           “(ii) the commissioned officer corps of  
16                           the Administration.

17           “(B) APPOINTMENT OF OFFICER CAN-  
18           DIDATES.—

19                           “(i) LIMITATION ON GRADE.—An  
20                           original appointment of an officer can-  
21                           didate, upon graduation from the basic of-  
22                           ficer training program of the commissioned  
23                           officer corps of the Administration, may  
24                           not be made in any other grade than en-  
25                           sign.

1                   “(ii) RANK.—Officer candidates re-  
2                   ceiving appointments as ensigns upon  
3                   graduation from basic officer training pro-  
4                   gram shall take rank according to their  
5                   proficiency as shown by the order of their  
6                   merit at date of graduation.

7                   “(2) SOURCE OF APPOINTMENTS.—An original  
8                   appointment may be made from among the fol-  
9                   lowing:

10                   “(A) Graduates of the basic officer train-  
11                   ing program of the commissioned officer corps  
12                   of the Administration.

13                   “(B) Graduates of the military service  
14                   academies of the United States who otherwise  
15                   meet the academic standards for enrollment in  
16                   the training program described in subparagraph  
17                   (A).

18                   “(C) Licensed officers of the United States  
19                   merchant marine who have served 2 or more  
20                   years aboard a vessel of the United States in  
21                   the capacity of a licensed officer, who otherwise  
22                   meet the academic standards for enrollment in  
23                   the training program described in subparagraph  
24                   (A).

1           “(3) MILITARY SERVICE ACADEMIES OF THE  
2 UNITED STATES DEFINED.—In this subsection, the  
3 term ‘military service academies of the United  
4 States’ means the following:

5           “(A) The United States Military Academy,  
6 West Point, New York.

7           “(B) The United States Naval Academy,  
8 Annapolis, Maryland.

9           “(C) The United States Air Force Acad-  
10 emy, Colorado Springs, Colorado.

11           “(D) The United States Coast Guard  
12 Academy, New London, Connecticut.

13           “(E) The United States Merchant Marine  
14 Academy, Kings Point, New York.

15           “(b) REAPPOINTMENT.—

16           “(1) IN GENERAL.—Except as provided in para-  
17 graph (2), an individual who previously served in the  
18 commissioned officer corps of the Administration  
19 may be appointed by the Secretary to the grade the  
20 individual held prior to separation.

21           “(2) REAPPOINTMENTS TO HIGHER GRADES.—  
22 An appointment under paragraph (1) to a position  
23 of importance and responsibility designated under  
24 section 228 may only be made by the President.

1       “(c) QUALIFICATIONS.—An appointment under sub-  
2 section (a) or (b) may not be given to an individual until  
3 the individual’s mental, moral, physical, and professional  
4 fitness to perform the duties of an officer has been estab-  
5 lished under such regulations as the Secretary shall pre-  
6 scribe.

7       “(d) PRECEDENCE OF APPOINTEES.—Appointees  
8 under this section shall take precedence in the grade to  
9 which appointed in accordance with the dates of their com-  
10 missions as commissioned officers in such grade. Ap-  
11 pointees whose dates of commission are the same shall  
12 take precedence with each other as the Secretary shall de-  
13 termine.

14       “(e) INTER-SERVICE TRANSFERS.—For inter-service  
15 transfers (as described in the Department of Defense Di-  
16 rective 1300.4 (dated December 27, 2006)) the Secretary  
17 shall—

18               “(1) coordinate with the Secretary of Defense  
19 and the Secretary of the Department in which the  
20 Coast Guard is operating to promote and streamline  
21 inter-service transfers;

22               “(2) give preference to such inter-service trans-  
23 fers for recruitment purposes as determined appro-  
24 priate by the Secretary; and

1           “(3) reappoint such inter-service transfers to  
2 the equivalent grade in the commissioned officer  
3 corps.”.

4           (2) CLERICAL AMENDMENT.—The table of sec-  
5 tions in section 1 of the Act entitled “An Act to au-  
6 thorize the Hydrographic Service Improvement Act  
7 of 1998, and for other purposes” (Public Law 107–  
8 372) is amended by striking the item relating to sec-  
9 tion 221 and inserting the following:

“Sec. 221. Original appointments and reappointments.”.

10 **SEC. 7. PERSONNEL BOARDS.**

11           Section 222 of the National Oceanic and Atmospheric  
12 Administration Commissioned Officer Corps Act of 2002  
13 (33 U.S.C. 3022) is amended to read as follows:

14 **“SEC. 222. PERSONNEL BOARDS.**

15           “(a) CONVENING.—Not less frequently than once  
16 each year and at such other times as the Secretary deter-  
17 mines necessary, the Secretary shall convene a personnel  
18 board.

19           “(b) MEMBERSHIP.—

20           “(1) IN GENERAL.—A board convened under  
21 subsection (a) shall consist of 5 or more officers who  
22 are serving in or above the permanent grade of the  
23 officers under consideration by the board.

1           “(2) RETIRED OFFICERS.—Officers on the re-  
2           tired list may be recalled to serve on such personnel  
3           boards as the Secretary considers necessary.

4           “(3) NO MEMBERSHIP ON 2 SUCCESSIVE  
5           BOARDS.—No officer may be a member of 2 succes-  
6           sive personnel boards convened to consider officers  
7           of the same grade for promotion or separation.

8           “(c) DUTIES.—Each personnel board shall—

9           “(1) recommend to the Secretary such changes  
10           as may be necessary to correct any erroneous posi-  
11           tion on the lineal list that was caused by administra-  
12           tive error; and

13           “(2) make selections and recommendations to  
14           the Secretary and the President for the appoint-  
15           ment, promotion, involuntary separation, continu-  
16           ation, and involuntary retirement of officers in the  
17           commissioned officer corps of the Administration as  
18           prescribed in this title.

19           “(d) ACTION ON RECOMMENDATIONS NOT ACCEPT-  
20           ABLE.—If any recommendation by a board convened  
21           under subsection (a) is not accepted by the Secretary or  
22           the President, the board shall make such further rec-  
23           ommendations as the Secretary or the President consider  
24           appropriate.”.

1 **SEC. 8. TEMPORARY APPOINTMENTS.**

2 Section 229 of the National Oceanic and Atmospheric  
3 Administration Commissioned Officer Corps Act of 2002  
4 (33 U.S.C. 3029) is amended to read as follows:

5 **“SEC. 229. TEMPORARY APPOINTMENTS.**

6 “(a) **APPOINTMENTS BY PRESIDENT.**—Temporary  
7 appointments in the grade of ensign, lieutenant junior  
8 grade, or lieutenant may be made by the President.

9 “(b) **TERMINATION.**—A temporary appointment to a  
10 position under subsection (a) shall terminate upon ap-  
11 proval of a permanent appointment for such position made  
12 by the President.

13 “(c) **ORDER OF PRECEDENCE.**—Appointees under  
14 subsection (a) shall take precedence in the grade to which  
15 appointed in accordance with the dates of their appoint-  
16 ments as officers in such grade. The order of precedence  
17 of appointees who are appointed on the same date shall  
18 be determined by the Secretary.

19 “(d) **ANY ONE GRADE.**—When determined by the  
20 Secretary to be in the best interest of the commissioned  
21 officer corps, officers in any permanent grade may be tem-  
22 porarily promoted one grade by the President. Any such  
23 temporary promotion terminates upon the transfer of the  
24 officer to a new assignment.”.

1 **SEC. 9. OFFICER CANDIDATES.**

2 (a) IN GENERAL.—Subtitle B of title II of the Na-  
3 tional Oceanic and Atmospheric Administration Commis-  
4 sioned Officer Corps Act of 2002 (33 U.S.C. 3021 et seq.)  
5 is amended by adding at the end the following:

6 **“SEC. 234. OFFICER CANDIDATES.**

7 “(a) DETERMINATION OF NUMBER.—The Secretary  
8 shall determine the number of appointments of officer can-  
9 didates.

10 “(b) APPOINTMENT.—Appointment of officer can-  
11 didates shall be made under regulations which the Sec-  
12 retary shall prescribe, including regulations with respect  
13 to determining age limits, methods of selection of officer  
14 candidates, term of service as an officer candidate before  
15 graduation from the program, and all other matters af-  
16 fecting such appointment.

17 “(c) DISMISSAL.—The Secretary may dismiss from  
18 the basic officer training program of the Administration  
19 any officer candidate who, during the officer candidate’s  
20 term as an officer candidate, the Secretary considers un-  
21 satisfactory in either academics or conduct, or not adapted  
22 for a career in the commissioned officer corps of the Ad-  
23 ministration. Officer candidates shall be subject to rules  
24 governing discipline prescribed by the Director of the Na-  
25 tional Oceanic and Atmospheric Administration Commis-  
26 sioned Officer Corps.

1 “(d) AGREEMENT.—

2 “(1) IN GENERAL.—Each officer candidate  
3 shall sign an agreement with the Secretary in ac-  
4 cordance with section 216(a)(2) regarding the officer  
5 candidate’s term of service in the commissioned offi-  
6 cer corps of the Administration.

7 “(2) ELEMENTS.—An agreement signed by an  
8 officer candidate under paragraph (1) shall provide  
9 that the officer candidate agrees to the following:

10 “(A) That the officer candidate will com-  
11 plete the course of instruction at the basic offi-  
12 cer training program of the Administration.

13 “(B) That upon graduation from the such  
14 program, the officer candidate—

15 “(i) will accept an appointment, if  
16 tendered, as an officer; and

17 “(ii) will serve on active duty for at  
18 least 4 years immediately after such ap-  
19 pointment.

20 “(e) REGULATIONS.—The Secretary shall prescribe  
21 regulations to carry out this section. Such regulations  
22 shall include—

23 “(1) standards for determining what constitutes  
24 a breach of an agreement signed under such sub-  
25 section (d)(1); and

1           “(2) procedures for determining whether such a  
2           breach has occurred.

3           “(f) REPAYMENT.—An officer candidate or former  
4           officer candidate who does not fulfill the terms of the obli-  
5           gation to serve as specified under section (d) shall be sub-  
6           ject to the repayment provisions of section 216(b).”.

7           (b) CLERICAL AMENDMENT.—The table of sections  
8           in section 1 of the Act entitled “An Act to authorize the  
9           Hydrographic Service Improvement Act of 1998, and for  
10          other purposes” (Public Law 107–372) is amended by in-  
11          serting after the item relating to section 233 the following:

“Sec. 234. Officer candidates.”.

12          (c) OFFICER CANDIDATE DEFINED.—Section 212 of  
13          the National Oceanic and Atmospheric Administration  
14          Commissioned Officer Corps Act of 2002 (33 U.S.C.  
15          3002) is amended—

16                 (1) by redesignating paragraphs (4) through  
17                 (6) as paragraphs (5) through (7), respectively; and

18                 (2) by inserting after paragraph (3) the fol-  
19                 lowing:

20                 “(4) OFFICER CANDIDATE.—The term ‘officer  
21                 candidate’ means an individual who is enrolled in the  
22                 basic officer training program of the Administration  
23                 and is under consideration for appointment as an of-  
24                 ficer under section 221(a)(2)(A).”.

1 (d) PAY FOR OFFICER CANDIDATES.—Section 203 of  
2 title 37, United States Code, is amended by adding at the  
3 end the following:

4 “(f)(1) An officer candidate enrolled in the basic offi-  
5 cer training program of the commissioned officer corps of  
6 the National Oceanic and Atmospheric Administration is  
7 entitled, while participating in such program, to monthly  
8 officer candidate pay at monthly rate equal to the basic  
9 pay of an enlisted member in the pay grade E-5 with less  
10 than 2 years service.

11 “(2) An individual who graduates from such program  
12 shall receive credit for the time spent participating in such  
13 program as if such time were time served while on active  
14 duty as a commissioned officer. If the individual does not  
15 graduate from such program, such time shall not be con-  
16 sidered creditable for active duty or pay.”

17 **SEC. 10. INVOLUNTARY RETIREMENT OR SEPARATION.**

18 Section 241 of the National Oceanic and Atmospheric  
19 Administration Commissioned Officer Corps Act of 2002  
20 (33 U.S.C. 3041) is amended by adding at the end the  
21 following:

22 “(d) DEFERMENT OF RETIREMENT OR SEPARATION  
23 FOR MEDICAL REASONS.—

24 “(1) IN GENERAL.—If the Secretary determines  
25 that the evaluation of the medical condition of an of-

1       ficer requires hospitalization or medical observation  
2       that cannot be completed with confidence in a man-  
3       ner consistent with the officer’s well being before the  
4       date on which the officer would otherwise be re-  
5       quired to retire or be separated under this section,  
6       the Secretary may defer the retirement or separation  
7       of the officer.

8               “(2) CONSENT REQUIRED.—A deferment may  
9       only be made with the written consent of the officer  
10      involved. If the officer does not provide written con-  
11      sent to the deferment, the officer shall be retired or  
12      separated as scheduled.

13              “(3) LIMITATION.—A deferral of retirement or  
14      separation under this subsection may not extend for  
15      more than 30 days after completion of the evalua-  
16      tion requiring hospitalization or medical observa-  
17      tion.”.

18   **SEC. 11. SEPARATION PAY.**

19       Section 242 of the National Oceanic and Atmospheric  
20      Administration Commissioned Officer Corps Act of 2002  
21      (33 U.S.C. 3042) is amended by adding at the end the  
22      following:

23              “(d) EXCEPTION.—An officer discharged for twice  
24      failing selection for promotion to the next higher grade

1 is not entitled to separation pay under this section if the  
2 officer—

3           “(1) expresses a desire not to be selected for  
4 promotion; or

5           “(2) requests removal from the list of select-  
6 ees.”.

7 **SEC. 12. APPLICABILITY OF CERTAIN PROVISIONS OF**  
8 **TITLE 10, UNITED STATES CODE.**

9           Section 261(a) of the National Oceanic and Atmos-  
10 pheric Administration Commissioned Officer Corps Act of  
11 2002 (33 U.S.C. 3071(a)) is amended—

12           (1) by redesignating paragraphs (13) through  
13 (16) as paragraphs (20) through (23), respectively;

14           (2) by redesignating paragraphs (7) through  
15 (12) as paragraphs (12) through (17), respectively;

16           (3) by redesignating paragraphs (4) through  
17 (6) as paragraphs (8) through (10), respectively;

18           (4) by inserting after paragraph (3) the fol-  
19 lowing:

20           “(4) Section 771, relating to unauthorized  
21 wearing of uniforms.

22           “(5) Section 774, relating to wearing religious  
23 apparel while in uniform.

24           “(6) Section 982, relating to service on State  
25 and local juries.

1           “(7) Section 1031, relating to administration of  
2 oaths.”;

3           (5) by inserting after paragraph (10), as redesi-  
4 gnated, the following:

5           “(11) Chapter 58, relating to the Benefits and  
6 Services for members being separated or recently  
7 separated.”; and

8           (6) by inserting after paragraph (17), as redesi-  
9 gnated, the following:

10          “(18) Subchapter I of chapter 88, relating to  
11 Military Family Programs.

12          “(19) Section 2005, relating to advanced edu-  
13 cation assistance, active duty agreements, and reim-  
14 bursement requirements.”.

15 **SEC. 13. EDUCATION LOAN REPAYMENT PROGRAM.**

16          (a) IN GENERAL.—Subtitle E of title II of the Na-  
17 tional Oceanic and Atmospheric Administration Commis-  
18 sioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.)  
19 is amended by adding at the end the following:

20 **“SEC. 267. EDUCATION LOAN REPAYMENT PROGRAM.**

21          “(a) AUTHORITY TO REPAY EDUCATION LOANS.—  
22 For the purpose of maintaining adequate numbers of offi-  
23 cers of the commissioned officer corps of the Administra-  
24 tion on active duty who have skills required by the com-

1 missioned officer corps, the Secretary may repay, in the  
2 case of a person described in subsection (b), a loan that—

3 “(1) was used by the person to finance edu-  
4 cation; and

5 “(2) was obtained from a governmental entity,  
6 private financial institution, educational institution,  
7 or other authorized entity.

8 “(b) ELIGIBLE PERSONS.—To be eligible to obtain  
9 a loan repayment under this section, a person must—

10 “(1) satisfy 1 of the requirements specified in  
11 subsection (c);

12 “(2) be fully qualified for, or hold, an appoint-  
13 ment as a commissioned officer in the commissioned  
14 officer corps of the Administration; and

15 “(3) sign a written agreement to serve on active  
16 duty, or, if on active duty, to remain on active duty  
17 for a period in addition to any other incurred active  
18 duty obligation.

19 “(c) ACADEMIC AND PROFESSIONAL REQUIRE-  
20 MENTS.—One of the following academic requirements  
21 must be satisfied for purposes of determining the eligi-  
22 bility of an individual for a loan repayment under this sec-  
23 tion:

24 “(1) The person is fully qualified in a profes-  
25 sion that the Secretary has determined to be nec-

1       essary to meet identified skill shortages in the com-  
2       missioned officer corps.

3           “(2) The person is enrolled as a full-time stu-  
4       dent in the final year of a course of study at an ac-  
5       credited educational institution (as determined by  
6       the Secretary of Education) leading to a degree in  
7       a profession that will meet identified skill shortages  
8       in the commissioned officer corps.

9       “(d) LOAN REPAYMENTS.—

10           “(1) IN GENERAL.—Subject to the limits estab-  
11       lished under paragraph (2), a loan repayment under  
12       this section may consist of the payment of the prin-  
13       cipal, interest, and related expenses of a loan ob-  
14       tained by a person described in subsection (b).

15           “(2) LIMITATION ON AMOUNT.—For each year  
16       of obligated service that a person agrees to serve in  
17       an agreement described in subsection (b)(3), the  
18       Secretary may pay not more than the amount speci-  
19       fied in section 2173(e)(2) of title 10, United States  
20       Code.

21       “(e) ACTIVE DUTY SERVICE OBLIGATION.—

22           “(1) IN GENERAL.—A person entering into an  
23       agreement described in subsection (b)(3) incurs an  
24       active duty service obligation.

1           “(2) LENGTH OF OBLIGATION DETERMINED  
2 UNDER REGULATIONS.—

3           “(A) IN GENERAL.—Except as provided in  
4 subparagraph (B), the length of the obligation  
5 under paragraph (1) shall be determined under  
6 regulations prescribed by the Secretary.

7           “(B) MINIMUM OBLIGATION.—The regula-  
8 tions prescribed under subparagraph (A) may  
9 not provide for a period of obligation of less  
10 than 1 year for each maximum annual amount,  
11 or portion thereof, paid on behalf of the person  
12 for qualified loans.

13           “(3) PERSONS ON ACTIVE DUTY BEFORE EN-  
14 TERING INTO AGREEMENT.—The active duty service  
15 obligation of persons on active duty before entering  
16 into the agreement shall be served after the conclu-  
17 sion of any other obligation incurred under the  
18 agreement.

19           “(f) EFFECT OF FAILURE TO COMPLETE OBLIGA-  
20 TION.—

21           “(1) ALTERNATIVE OBLIGATIONS.—An officer  
22 who is relieved of the officer’s active duty obligation  
23 under this section before the completion of that obli-  
24 gation may be given any alternative obligation, at  
25 the discretion of the Secretary.

1           “(2) REPAYMENT.—An officer who does not  
2           complete the period of active duty specified in the  
3           agreement entered into under subsection (b)(3), or  
4           the alternative obligation imposed under paragraph  
5           (1), shall be subject to the repayment provisions  
6           under section 216.

7           “(g) RULEMAKING.—The Secretary shall prescribe  
8           regulations to carry out this section, including—

9                   “(1) standards for qualified loans and author-  
10                  ized payees; and

11                  “(2) other terms and conditions for the making  
12                  of loan repayments.”.

13           (b) CLERICAL AMENDMENT.—The table of sections  
14           in section 1 of the Act entitled “An Act to authorize the  
15           Hydrographic Service Improvement Act of 1998, and for  
16           other purposes” (Public Law 107–372) is amended by in-  
17           serting after the item relating to section 266 the following:

          “Sec. 267. Education loan repayment program.”.

18   **SEC. 14. INTEREST PAYMENT PROGRAM.**

19           (a) IN GENERAL.—Subtitle E of title II of the Na-  
20           tional Oceanic and Atmospheric Administration Commis-  
21           sioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.),  
22           as amended by section 13, is further amended by adding  
23           at the end the following:

1 **“SEC. 268. INTEREST PAYMENT PROGRAM.**

2 “(a) **AUTHORITY.**—The Secretary may pay the inter-  
3 est and any special allowances that accrue on 1 or more  
4 student loans of an eligible officer, in accordance with this  
5 section.

6 “(b) **ELIGIBLE OFFICERS.**—An officer is eligible for  
7 the benefit described in subsection (a) while the officer—

8 “(1) is serving on active duty;

9 “(2) has not completed more than 3 years of  
10 service on active duty;

11 “(3) is the debtor on 1 or more unpaid loans  
12 described in subsection (c); and

13 “(4) is not in default on any such loan.

14 “(c) **STUDENT LOANS.**—The authority to make pay-  
15 ments under subsection (a) may be exercised with respect  
16 to the following loans:

17 “(1) A loan made, insured, or guaranteed under  
18 part B of title IV of the Higher Education Act of  
19 1965 (20 U.S.C. 1071 et seq.).

20 “(2) A loan made under part D of such title  
21 (20 U.S.C. 1087a et seq.).

22 “(3) A loan made under part E of such title  
23 (20 U.S.C. 1087aa et seq.).

24 “(d) **MAXIMUM BENEFIT.**—Interest and any special  
25 allowance may be paid on behalf of an officer under this

1 section for any of the 36 consecutive months during which  
2 the officer is eligible under subsection (b).

3 “(e) FUNDS FOR PAYMENTS.—The Secretary may  
4 use amounts appropriated for the pay and allowances of  
5 personnel of the commissioned officer corps of the Admin-  
6 istration for payments under this section.

7 “(f) COORDINATION WITH SECRETARY OF EDU-  
8 CATION.—

9 “(1) IN GENERAL.—The Secretary shall consult  
10 with the Secretary of Education regarding the ad-  
11 ministration of this section.

12 “(2) TRANSFER OF FUNDS.—The Secretary  
13 shall transfer to the Secretary of Education the  
14 funds necessary—

15 “(A) to pay interest and special allowances  
16 on student loans under this section (in accord-  
17 ance with sections 428(o), 455(l), and 464(j) of  
18 the Higher Education Act of 1965 (20 U.S.C.  
19 1078(o), 1087e(l), and 1087dd(j)); and

20 “(B) to reimburse the Secretary of Edu-  
21 cation for any reasonable administrative costs  
22 incurred by the Secretary in coordinating the  
23 program under this section with the administra-  
24 tion of the student loan programs under parts  
25 B, D, and E of title IV of the Higher Edu-

1            cation Act of 1965 (20 U.S.C. 1071 et seq.,  
2            1087a et seq., 1087aa et seq.).

3            “(g) SPECIAL ALLOWANCE DEFINED.—In this sec-  
4 tion, the term ‘special allowance’ means a special allow-  
5 ance that is payable under section 438 of the Higher Edu-  
6 cation Act of 1965 (20 U.S.C. 1087–1).”.

7            (b) CONFORMING AMENDMENTS.—

8            (1) Section 428(o) of the Higher Education Act  
9            of 1965 (20 U.S.C. 1078(o)) is amended—

10            (A) by striking the subsection heading and  
11            inserting “ARMED FORCES AND NOAA COM-  
12            MISSIONED OFFICER CORPS STUDENT LOAN  
13            INTEREST PAYMENT PROGRAMS”; and

14            (B) in paragraph (1)—

15            (i) by inserting “or section 264 of the  
16            National Oceanic and Atmospheric Admin-  
17            istration Commissioned Officer Corps Act  
18            of 2002” after “Code,”; and

19            (ii) by inserting “or an officer in the  
20            commissioned officer corps of the National  
21            Oceanic and Atmospheric Administration,  
22            respectively,” after “Armed Forces”.

23            (2) Sections 455(l) and 464(j) of the Higher  
24            Education Act of 1965 (20 U.S.C. 1087e(l) and  
25            1087dd(j)) are each amended—

1 (A) by striking the subsection heading and  
 2 inserting “ARMED FORCES AND NOAA COM-  
 3 MISSIONED OFFICER CORPS STUDENT LOAN  
 4 INTEREST PAYMENT PROGRAMS”; and

5 (B) in paragraph (1)—

6 (i) by inserting “or section 264 of the  
 7 National Oceanic and Atmospheric Admin-  
 8 istration Commissioned Officer Corps Act  
 9 of 2002” after “Code,”; and

10 (ii) by inserting “or an officer in the  
 11 commissioned officer corps of the National  
 12 Oceanic and Atmospheric Administration,  
 13 respectively” after “Armed Forces”.

14 (c) CLERICAL AMENDMENT.—The table of sections  
 15 in section 1 of the Act entitled “An Act to authorize the  
 16 Hydrographic Service Improvement Act of 1998, and for  
 17 other purposes” (Public Law 107–372), as amended by  
 18 section 13(b), is further amended by inserting after the  
 19 item relating to section 267, as added by such section  
 20 13(b), the following:

“Sec. 268. Interest payment program.”.

21 **SEC. 15. STUDENT PRE-COMMISSIONING EDUCATION AS-**  
 22 **SISTANCE PROGRAM.**

23 (a) IN GENERAL.—Subtitle E of title II of the Na-  
 24 tional Oceanic and Atmospheric Administration Commis-  
 25 sioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.),

1 as amended by sections 13 and 14, is further amended  
 2 by adding at the end the following:

3 **“SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION AS-**  
 4 **SISTANCE PROGRAM.**

5 “(a) **AUTHORITY TO PROVIDE FINANCIAL ASSIST-**  
 6 **ANCE.**—For the purpose of maintaining adequate numbers  
 7 of officers of the commissioned officer corps of the Admin-  
 8 istration on active duty, the Secretary may provide finan-  
 9 cial assistance to a person described in subsection (b) for  
 10 expenses of the person while the person is pursuing on  
 11 a full-time basis at an accredited educational institution  
 12 (as determined by the Secretary of Education) a program  
 13 of education approved by the Secretary that leads to—

14 “(1) a baccalaureate degree in not more than 5  
 15 academic years; or

16 “(2) a postbaccalaureate degree.

17 “(b) **ELIGIBLE PERSONS.**—

18 “(1) **IN GENERAL.**—A person is eligible to ob-  
 19 tain financial assistance under subsection (a) if the  
 20 person—

21 “(A) is enrolled on a full-time basis in a  
 22 program of education referred to in subsection  
 23 (a) at any educational institution described in  
 24 such subsection;

1           “(B) meets all of the requirements for ac-  
2           ceptance into the commissioned officer corps of  
3           the Administration except for the completion of  
4           a baccalaureate degree; and

5           “(C) enters into a written agreement with  
6           the Secretary described in paragraph (2).

7           “(2) AGREEMENT.—A written agreement re-  
8           ferred to in paragraph (1)(C) is an agreement be-  
9           tween the person and the Secretary in which the  
10          person agrees—

11          “(A) to accept an appointment as an offi-  
12          cer, if tendered; and

13          “(B) upon completion of the person’s edu-  
14          cational program, agrees to serve on active  
15          duty, immediately after appointment, for—

16                  “(i) up to 3 years if the person re-  
17                  ceived less than 3 years of assistance; and

18                  “(ii) up to 5 years if the person re-  
19                  ceived at least 3 years of assistance.

20          “(c) QUALIFYING EXPENSES.—Expenses for which  
21          financial assistance may be provided under subsection (a)  
22          are the following:

23                  “(1) Tuition and fees charged by the edu-  
24                  cational institution involved.

25                  “(2) The cost of books.

1           “(3) In the case of a program of education  
2 leading to a baccalaureate degree, laboratory ex-  
3 penses.

4           “(4) Such other expenses as the Secretary con-  
5 siders appropriate.

6           “(d) LIMITATION ON AMOUNT.—The Secretary shall  
7 prescribe the amount of financial assistance provided to  
8 a person under subsection (a), which may not exceed the  
9 amount specified in section 2173(e)(2) of title 10, United  
10 States Code, for each year of obligated service that a per-  
11 son agrees to serve in an agreement described in sub-  
12 section (b)(2).

13           “(e) DURATION OF ASSISTANCE.—Financial assist-  
14 ance may be provided to a person under subsection (a)  
15 for not more than 5 consecutive academic years.

16           “(f) SUBSISTENCE ALLOWANCE.—

17           “(1) IN GENERAL.—A person who receives fi-  
18 nancial assistance under subsection (a) shall be enti-  
19 tled to a monthly subsistence allowance at a rate  
20 prescribed under paragraph (2) for the duration of  
21 the period for which the person receives such finan-  
22 cial assistance.

23           “(2) DETERMINATION OF AMOUNT.—The Sec-  
24 retary shall prescribe monthly rates for subsistence  
25 allowance provided under paragraph (1), which shall

1 be equal to the amount specified in section 2144(a)  
2 of title 10, United States Code.

3 “(g) INITIAL CLOTHING ALLOWANCE.—

4 “(1) TRAINING.—The Secretary may prescribe  
5 a sum which shall be credited to each person who re-  
6 ceives financial assistance under subsection (a) to  
7 cover the cost of the person’s initial clothing and  
8 equipment issue.

9 “(2) APPOINTMENT.—Upon completion of the  
10 program of education for which a person receives fi-  
11 nancial assistance under subsection (a) and accept-  
12 ance of appointment in the commissioned officer  
13 corps of the Administration, the person may be  
14 issued a subsequent clothing allowance equivalent to  
15 that normally provided to a newly appointed officer.

16 “(h) TERMINATION OF FINANCIAL ASSISTANCE.—

17 “(1) IN GENERAL.—The Secretary shall termi-  
18 nate the assistance provided to a person under this  
19 section if—

20 “(A) the Secretary accepts a request by  
21 the person to be released from an agreement  
22 described in subsection (b)(2);

23 “(B) the misconduct of the person results  
24 in a failure to complete the period of active  
25 duty required under the agreement; or

1           “(C) the person fails to fulfill any term or  
2           condition of the agreement.

3           “(2) REIMBURSEMENT.—The Secretary may re-  
4           quire a person who receives assistance described in  
5           subsection (c), (f), or (g) under an agreement en-  
6           tered into under subsection (b)(1)(C) to reimburse  
7           the Secretary in an amount that bears the same  
8           ratio to the total costs of the assistance provided to  
9           that person as the unserved portion of active duty  
10          bears to the total period of active duty the officer  
11          agreed to serve under the agreement.

12          “(3) WAIVER.—The Secretary may waive the  
13          service obligation of a person through an agreement  
14          entered into under subsection (b)(1)(C) if the per-  
15          son—

16                 “(A) becomes unqualified to serve on active  
17                 duty in the commissioned officer corps of the  
18                 Administration because of a circumstance not  
19                 within the control of that person; or

20                 “(B) is—

21                         “(i) not physically qualified for ap-  
22                         pointment; and

23                         “(ii) determined to be unqualified for  
24                         service in the commissioned officer corps of  
25                         the Administration because of a physical or

1           medical condition that was not the result  
2           of the person’s own misconduct or grossly  
3           negligent conduct.

4           “(4) OBLIGATION AS DEBT TO UNITED  
5 STATES.—An obligation to reimburse the Secretary  
6 imposed under paragraph (2) is, for all purposes, a  
7 debt owed to the United States.

8           “(5) DISCHARGE IN BANKRUPTCY.—A dis-  
9 charge in bankruptcy under title 11, United States  
10 Code, that is entered less than 5 years after the ter-  
11 mination of a written agreement entered into under  
12 subsection (b)(1)(C) does not discharge the person  
13 signing the agreement from a debt arising under  
14 such agreement or under paragraph (2).

15          “(i) REGULATIONS.—The Secretary may promulgate  
16 such regulations and orders as the Secretary considers ap-  
17 propriate to carry out this section.”.

18          (b) CLERICAL AMENDMENT.—The table of sections  
19 in section 1 of the Act entitled “An Act to authorize the  
20 Hydrographic Service Improvement Act of 1998, and for  
21 other purposes” (Public Law 107–372), as amended by  
22 section 14(c), is further amended by inserting after the  
23 item relating to section 268, as added by such section  
24 14(c), the following:

“Sec. 269. Student pre-commissioning education assistance program.”.

1 **SEC. 16. LIMITATION ON EDUCATIONAL ASSISTANCE.**

2 (a) IN GENERAL.—Each fiscal year, beginning with  
3 fiscal year 2013, the Secretary of Commerce shall ensure  
4 that the total amount expended by the Secretary under  
5 section 267 of the National Oceanic and Atmospheric Ad-  
6 ministration Commissioned Officer Corps Act of 2002 (as  
7 added by section 13(a)), section 268 of such Act (as added  
8 by section 14(a)), and section 269 of such Act (as added  
9 by section 15(a)) does not exceed the amount by which—

10 (1) the total amount the Secretary would pay in  
11 that fiscal year to officer candidates under section  
12 203(f)(1) of title 37, United States Code (as added  
13 by section 9(d)), if such section entitled officers can-  
14 didates to pay at monthly rates equal to the basic  
15 pay of a commissioned officer in the pay grade O-  
16 1 with less than 2 years of service; exceeds

17 (2) the total amount the Secretary actually  
18 pays in that fiscal year to officer candidates under  
19 section 203(f)(1) of such title (as so added).

20 (b) OFFICER CANDIDATE DEFINED.—In this section,  
21 the term “officer candidate” has the meaning given the  
22 term in section 212 of such Act (as added by section 9(c)).

23 **SEC. 17. APPLICABILITY OF CERTAIN PROVISIONS OF**  
24 **TITLE 37, UNITED STATES CODE.**

25 (a) IN GENERAL.—Subtitle E of title II of the Na-  
26 tional Oceanic and Atmospheric Administration Commis-

1 sioned Officer Corps Act of 2002 (33 U.S.C. 3071 et seq.),  
2 as amended by sections 13 through 15, is further amended  
3 by adding at the end the following:

4 **“SEC. 270. APPLICABILITY OF CERTAIN PROVISIONS OF**  
5 **TITLE 37, UNITED STATES CODE.**

6 “(a) PROVISIONS MADE APPLICABLE TO COMMIS-  
7 SIONED OFFICER CORPS.—The provisions of law applica-  
8 ble to the Armed Forces under the following provisions  
9 of title 37, United States Code, shall apply to the commis-  
10 sioned officer corps of the Administration:

11 “(1) Section 324, relating to accession bonuses  
12 for new officers in critical skills.

13 “(2) Section 403(f)(3), relating to prescribing  
14 regulations defining the terms ‘field duty’ and ‘sea  
15 duty’.

16 “(3) Section 403(l), relating to temporary con-  
17 tinuation of housing allowance for dependents of  
18 members dying on active duty.

19 “(4) Section 414(a)(2), relating to personal  
20 money allowance while serving as Director of the  
21 National Oceanic and Atmospheric Administration  
22 Commissioned Officer Corps.

23 “(5) Section 428, relating to allowances for re-  
24 cruiting expenses.

1           “(6) Section 435, relating to allowances for fu-  
2           neral honors duty.

3           “(b) REFERENCES.—The authority vested by title 37,  
4 United States Code, in the ‘military departments’, ‘the  
5 Secretary concerned’, or ‘the Secretary of Defense’ with  
6 respect to the provisions of law referred to in subsection  
7 (a) shall be exercised, with respect to the commissioned  
8 officer corps of the Administration when the commissioned  
9 officer corps is not operating as a service in the Navy,  
10 by the Secretary of Commerce or the Secretary’s des-  
11 ignee.”.

12           (b) CLERICAL AMENDMENT.—The table of sections  
13 in section 1 of the Act entitled “An Act to authorize the  
14 Hydrographic Service Improvement Act of 1998, and for  
15 other purposes” (Public Law 107–372), as amended by  
16 section 15(b), is further amended by inserting after the  
17 item relating to section 269, as added by such section  
18 15(b), the following:

“Sec. 270. Applicability of certain provisions of title 37, United States Code.”.

19 **SEC. 18. APPLICATION OF CERTAIN PROVISIONS OF COM-**  
20 **PETITIVE SERVICE LAW.**

21           Section 3304(f) of title 5, United States Code, is  
22 amended—

23           (1) in paragraph (1), by inserting “and mem-  
24           bers of the commissioned officer corps of the Na-  
25           tional Oceanic and Atmospheric Administration (or

1 its predecessor organization the Coast and Geodetic  
2 Survey) separated from such uniformed service”  
3 after “separated from the armed forces”;

4 (2) in paragraph (2), by striking “or veteran”  
5 and inserting “, veteran, or member”; and

6 (3) in paragraph (4), by inserting “and mem-  
7 bers of the commissioned officer corps of the Na-  
8 tional Oceanic and Atmospheric Administration (or  
9 its predecessor organization the Coast and Geodetic  
10 Survey) separated from such uniformed service”  
11 after “separated from the armed forces”.

12 **SEC. 19. ELIGIBILITY OF ALL MEMBERS OF UNIFORMED**  
13 **SERVICES FOR LEGION OF MERIT AWARD.**

14 Section 1121 of title 10, United States Code, is  
15 amended by striking “armed forces” and inserting “uni-  
16 formed services”.

17 **SEC. 20. APPLICATION OF EMPLOYMENT AND REEMPLOY-**  
18 **MENT RIGHTS OF MEMBERS OF THE UNI-**  
19 **FORMED SERVICES TO MEMBERS OF COM-**  
20 **MISSIONED OFFICER CORPS.**

21 Section 4303(16) of title 38, United States Code, is  
22 amended by inserting “the commissioned officer corps of  
23 the National Oceanic and Atmospheric Administration,”  
24 after “Public Health Service,”.

1 **SEC. 21. PROTECTED COMMUNICATIONS FOR COMMIS-**  
2 **SIONED OFFICER CORPS AND PROHIBITION**  
3 **OF RETALIATORY PERSONNEL ACTIONS.**

4 (a) IN GENERAL.—Subsection (a) of section 261 of  
5 the National Oceanic and Atmospheric Administration  
6 Commissioned Officer Corps Act of 2002 (33 U.S.C.  
7 3071(a)), as amended by section 12, is further amended—

8 (1) by redesignating paragraphs (8) through  
9 (23) as paragraphs (9) through (24), respectively;  
10 and

11 (2) by inserting after paragraph (7) the fol-  
12 lowing:

13 “(8) Section 1034, relating to protected com-  
14 munications and prohibition of retaliatory personnel  
15 actions.”.

16 (b) CONFORMING AMENDMENT.—Subsection (b) of  
17 such section is amended by adding at the end the fol-  
18 lowing: “For purposes of paragraph (8) of subsection (a),  
19 the term ‘Inspector General’ in section 1034 of such title  
20 10 shall mean the Inspector General of the Department  
21 of Commerce.”.

22 **SEC. 22. CRIMINAL PENALTIES FOR WEARING UNIFORM**  
23 **WITHOUT AUTHORITY.**

24 Section 702 of title 18, United States Code, is  
25 amended by striking “Service or any” and inserting “Serv-

1 ice, the commissioned officer corps of the National Oce-  
2 anic and Atmospheric Administration, or any”.

3 **SEC. 23. TECHNICAL CORRECTION.**

4 Section 101(21)(C) of title 38, United States Code,  
5 is amended by inserting “in the commissioned officer  
6 corps” before “of the National”.

7 **SEC. 24. REPORT.**

8 (a) IN GENERAL.—Not later than 90 days after the  
9 date of the enactment of this Act, the Secretary of Com-  
10 merce shall submit to Congress a report evaluating the  
11 current status and projected needs of the commissioned  
12 officer corps of the National Oceanic and Atmospheric Ad-  
13 ministration to operate sufficiently through fiscal year  
14 2017.

15 (b) CONTENTS.—The report required by subsection  
16 (a) shall include the following:

17 (1) The average annual attrition rate of officers  
18 in the commissioned officer corps of the National  
19 Oceanic and Atmospheric Administration.

20 (2) An estimate of the number of annual re-  
21 cruits that would reasonably be required to operate  
22 the commissioned officer corps sufficiently through  
23 fiscal year 2017.

24 (3) The projected impact of this Act on annual  
25 recruitment numbers through fiscal year 2017.

1           (4) Identification of areas of duplication or un-  
2 necessary redundancy in current activities of the  
3 commissioned officer corps that could otherwise be  
4 streamlined or eliminated to save costs.

5           (5) Such other matters as the Secretary con-  
6 siders appropriate regarding the provisions of this  
7 Act and the amendments made by this Act.

8 **SEC. 25. EFFECTIVE DATE.**

9           Notwithstanding any other provision of this Act, sec-  
10 tions 2 through 22 shall take effect on the date that is  
11 90 days after the date on which the Secretary of Com-  
12 merce submits to Congress the report required by section  
13 25(a).

Passed the Senate December 20, 2012.

Attest:

*Secretary.*



112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2388**

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**AN ACT**

To reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, and for other purposes.